

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

FRED L. PLUMP,)	
)	
Plaintiff,)	
)	
v.)	No. 2:07-cv-01014-MEF-CSC
)	
BOB RILEY, Governor,)	
)	
Defendant.)	

GOVERNOR RILEY'S NOTICE OF FILING

Governor Bob Riley, defendant in this action, respectfully gives notice that the United States Department of Justice has requested additional information to complete its review of the preclearance submission arising out of this litigation. A copy of the letter, dated May 8, 2008, is attached hereto.

Respectfully submitted,

Of counsel:

Kenneth D. Wallis, II (WAL064)
Chief Legal Advisor
Office of the Governor

Scott L. Rouse (ROU010)
Deputy Legal Advisor
Office of the Governor

ADDRESS OF COUNSEL:
Office of the Governor
State Capitol, Suite NB-05
600 Dexter Avenue
Montgomery, Alabama 36130
(334) 242-7120 Phone
(334) 242-2335 Fax

ken.wallis@governor.state.al.us
scott.rouse@governor.alabama.gov

**Troy King (KIN047)
Attorney General**

s/ Misty S. Fairbanks
Margaret L. Fleming (FLE001)
James W. Davis (DAV103)
Misty S. Fairbanks (FAI005)
Assistant Attorneys General

OFFICE OF THE ATTORNEY GENERAL
STATE OF ALABAMA
11 South Union Street
Montgomery, Alabama 36130
Telephone: (334) 242-7300
Facsimile: (334) 353-8440
mfleming@ago.state.al.us
jimdavis@ago.state.al.us
mfairbanks@ago.state.al.us

Counsel for the Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 12th day of May, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following counsel: Edward Still, Edward Still Law Firm LLC (docket@votelaw.com), and James U. Blacksher (jblacksher@ns.sympatico.ca).

s/ Misty S. Fairbanks
Misty S. Fairbanks (FAI005)



*Voting Section - NWB
950 Pennsylvania Avenue, NW
Washington, DC 20530*

CC:TFM:DJ
DJ 166-012-2
2008-1576

May 8, 2008

The Honorable Troy King
Attorney General
Misty S. Fairbanks, Esq.
Assistant Attorney General
11 South Union Street
Montgomery, Alabama 36130

Dear Attorney General King and Ms. Fairbanks:

This refers to the change in the procedure for filling vacancies on the Jefferson County Commission from special election to gubernatorial appointment, for Jefferson County, Alabama, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. § 1973c. We received your submission on March 19, 2008.

Our analysis indicates that the information sent is insufficient to enable us to determine that the proposed change does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority group, as required under Section 5. The following information is necessary so that we may complete our review of your submission:

1. The factual basis for the State or county's determination that the proposed change will not result in a retrogression of the effective exercise of the electoral franchise by the African-American voters of Jefferson County Commission District No. 1.

2. A special election was held for Jefferson County Commission, District 1 on February 5, 2008. Please provide any documents, including any analysis or reports that have been done discussing whether Mr. Bowman was the candidate of choice for African-American voters in that special election. For this election, please also provide the following:

(a) the number of votes each candidate received by precinct;

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(b) the total number of persons who voted and the number of African-American persons who voted, by precinct, if that information is available;

(c) if a breakdown by race or ethnicity is not available as indicated in paragraph (b) above, copies of the actual voter sign-in sheets for each precinct located in whole or in part within Jefferson County for this election; and

(d) the number of registered voters, by race or ethnicity and precinct, at the time of the election.

3. Please provide any documents, including any analysis or reports that have been done discussing whether there is racially polarized voting in Jefferson County.

4. Please provide election returns by voting precinct for all state, county, municipal, and school district elections in which Jefferson County was included in whole or in part and in which an African-American candidate participated from 1997 to the present. For each election, please indicate the following:

(a) the office sought (indicate the incumbent(s), if any, their races, and whether incumbency was by election or appointment);

(b) each candidate's name and race or ethnicity;

(c) the number of votes each candidate received by precinct;

(d) the total number of persons who voted and the number of African-American persons who voted, by precinct, if that information is available;

(e) if a breakdown by race or ethnicity is not available as indicated in paragraph (d) above, copies of the actual voter sign-in sheets for each precinct located in whole or in part within Jefferson County for each election; and

(f) the number of registered voters, by race or ethnicity and precinct, at the time of the election.

(g) for early and absentee voting, if possible, an identification of the precinct in which early and/or absentee voters would have voted on election day.

(h) if possible, this information should be provided in electronic format, either Excel or a delimited text file. If a delimited text file, please specify the common delimiter used.

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5. The precinct boundaries used for the elections for which election return and voter registration data is requested. If possible, this should be in electronic form. It will expedite our review if we receive this information in "Shape file format," including all three types of files that form components of this format: .shp, .shx, and .dbf files.

6. A detailed description of the efforts, both formal and informal, made by the county or the State to secure the views of the public, including members of the minority community, regarding whether the voting change is retrogressive. Describe the substance of any comments or suggestions received, indicate the names and daytime telephone numbers of the persons making the comments or suggestions, and explain the State or county's response, if any.

The Attorney General has sixty days to consider a completed submission pursuant to Section 5. This sixty-day review period will begin when we receive the information specified above. See Procedures for the Administration of Section 5 of the Voting Rights Act (28 C.F.R. § 51.37). However, if no response is received within sixty days of this request, the Attorney General may object to the proposed change consistent with the burden of proof placed upon the submitting authority. See 28 C.F.R. §§ 51.40 and 51.52(a) and (c).

Changes which affect voting are legally unenforceable unless Section 5 preclearance has been obtained. Clark v. Roemer, 500 U.S. 646 (1991); 28 C.F.R. § 51.10. Therefore, to enable us to meet our responsibility to enforce the Voting Rights Act, please inform us of the action the State of Alabama plans to take concerning this matter. If you have any questions, you should call Donald Jacobsen (202-305-8299) of our staff. Refer to File No. 2008-1576 in any response to this letter so that your correspondence will be channeled properly.

Since the Section 5 status of this change is at issue in Plump v. Riley (Civ. Act. No. 07-1014, M.D. Ala. (three-judge court)) and Working v. Jefferson County, (No. 08-cv-900316, 10th Jud. Cir., Ala.), we are providing a copy of this letter to the court and counsel of record in those cases.

Sincerely,

A handwritten signature in black ink, appearing to read "C. Coates", with a small "for" written below it.

Christopher Coates
Acting Chief, Voting Section